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Letter dated 17 February 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

The most serious crimes of concern to the international community, such as war crimes, crimes against humanity and genocide, have been committed in the course of the ongoing aggression of the Republic of Armenia against the Republic of Azerbaijan. In the coming days, Azerbaijan commemorates the twentieth anniversary of the atrocious crimes committed against the civilians and defenders of the town of Khojaly, situated in the Daghlyq Garabagh (Nagorno Karabakh) region of the Republic of Azerbaijan.

On the night of 25 to 26 February 1992, the armed forces of Armenia, with the support of irregular armed bands and terrorist groups, as well as with the direct participation of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, the personnel of which was composed mainly of ethnic Armenians, implemented the seizure of Khojaly. The attack and capture of the town involved the extermination of hundreds of Azerbaijanis, including women, children and the elderly, and thousands of civilians were wounded and taken hostage, many of whom remain missing, while the town was razed to the ground.

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The level of brutality in Khojaly is shocking, and atrocities included scalping, beheading, bayoneting of pregnant women and the mutilation of bodies. The facts confirm that the intentional slaughter of the civilians in Khojaly town was directed at their mass extermination only because they were Azerbaijanis. By committing this appalling crime, its perpetrators also had a purpose, to strike terror into the hearts of people and create fear before the horrifying massacre. Indeed, Khojaly was chosen as a stage for further aggression against and occupation and ethnic cleansing of Azerbaijani territories.

Apart from the considerable information in the possession of the law enforcement agencies of Azerbaijan, the responsibility of Armenia, as well as its political and military leadership and subordinate local armed groups for the crimes committed in Khojaly has been recognized and documented by numerous independent sources and eyewitnesses to the tragedy, and has even been admitted by Armenia's high-ranking officials and the country's public sources. This responsibility emanates from both general international law and, more particularly, from the provisions of the European Convention on Human Rights, to which both Armenia and Azerbaijan are parties.

In its judgement of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behaviour of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity". The European Court made in this regard the following observation, which leaves no doubt as to the question of qualification of the crime and ensuing responsibility for it:

> "It appears that the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town ..." (Judgment of the European Court of Human Rights of 22 April 2010, para. 87).

The relevant Security Council resolutions adopted in 1993 in response to the illegal use of force against Azerbaijan and occupation of its territories, including resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and bombardments of inhabited areas. It is beyond dispute that such acts amount to war crimes, crimes against humanity and racial discrimination.

The overall assessment of the causes and consequences of the war unleashed by Armenia against Azerbaijan makes it absolutely clear that the intentional slaughter of the civilians and defenders of Khojaly was not an isolated or sporadic act, but was part of Armenia's widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation and hatred. It should be also noted that the Khojaly massacre and other crimes committed against Azerbaijanis during the conflict have finally exploded the myth depicting Armenia as an eternal victim.

The Government of Azerbaijan is confident that consistent measures being taken at the national level, as well as the existing legal framework of prosecution of

and punishment for the most serious crimes of concern to the international community, will serve to end impunity for the crimes in Khojaly and other grave offences committed in the course of the aggression of Armenia against Azerbaijan. It is important to ensure that the pursuit of offenders is undertaken through either the domestic legal systems of involved and third-party States or relevant international criminal institutions, as appropriate, and that State responsibility is enforced through existing inter-State mechanisms.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 35, 39, 65, 67, 69, 83 and 84, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative